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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, THU HA T

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,276

Applicant(s)

CERAMI ET AL.

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-17 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on August 07, 2002 and March 17. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

3. Applicant(s) is requested to provide all of the serial number of co-pending applications in the cross-references related applications on page 1 and in the detailed description of the invention on page 4.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4, 7-12 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Lewis** U.S. Patent No. **6,205,563**.

6. As to claim 1, **Lewis** teaches the invention substantially as claimed, including a method for managing a plurality of failures in a video and data network comprising:

discovering a failure in the video and data network, wherein the failure is a root cause (abstract, figures 1, 3, 7, blocks 72, 74, col. 5, lines 40-67, col. 7, lines 34-col. 8, lines 33);

correlating the root cause failure with the plurality of failures to determine related failures generated as a result of the root cause failure (abstract, figures 1, 3, 6, block 66, col. 3, lines 29-65, col. 4, lines 61-col. 6, lines 14, col. 7, lines 19-col. 8, lines 39);

suppressing the related failures (figure 6, col. 2, lines 20-26,);

determining if the root cause failure is automatically resolvable (figure 6, abstract, col. 2, lines 20-26, col. 11, lines 10-65); and

if the root cause failure is automatically resolvable, resolving the root cause failure (figure 6, col. 11, lines 10-65).

7. As to claim 4, **Lewis** teaches the invention substantially as claimed, further comprising creating a repair ticket for the root cause failure (col. 6, lines 52-col. 7, lines 17).

8. As to claim 7, **Lewis** teaches the invention substantially as claimed, further comprising determining one or more user's affected by the root cause failure (col. 3, lines 54-64, col. 11, lines 48-65).

9. As to claim 8, **Lewis** teaches the invention substantially as claimed, wherein determining one or more user's affected by the failure comprises using customer data to correlate the one or more users to the failure (col. 3, lines 54-64, col. 11, lines 10-65).

10. As to claim 9, **Lewis** teaches the invention substantially as claimed, further comprising notifying the one or more user's affected by the failure (col. 3, lines 54-64, col. 11 lines 48-65).

11. As to claim 10, **Lewis** teaches the invention substantially as claimed, further comprising opening a repair ticket in one or more records of the one or more user's affected by the failure (col. 6, lines 52-col. 7, lines 17).

12. As to claim 11, **Lewis** teaches the invention substantially as claimed, further comprising determining when the failure was resolved (col. 6, lines 52-col. 7, lines 17).

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13. As to claim 12, **Lewis** teaches the invention substantially as claimed, further comprising closing the repair ticket in the one or more records of the one or more user's affected by the failure when the failure has been resolved (col. 6, lines 52-col. 7, lines 17).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2-3, and 5-6 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Lewis** U.S. Patent No. **6,205,563**, in view of **Natarajan et al.** (hereinafter **Natarajan**) U.S. Patent No. **6,765,864**.

16. As to claim 2, **Lewis** does not explicitly teach the invention as claimed; however, **Natarajan** teaches wherein the video and data network comprises a Digital Subscriber Line (xDSL) network (col. 12, lines 55-col. 13, lines 8). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to include the feature of DSL network of **Natarajan** into the network

management teaching of **Natarajan** because it would provide an efficient communication system that performs an efficient network diagnostics and fault management of a DSL network (col. 13, lines 5-8).

17. As to claim 3, **Lewis** does not explicitly teach the invention as claimed; however, **Natarajan** teaches wherein the video and data network comprises a Very high bit rate DSL (VDSL) network (col. 12, lines 55-col. 13, lines 8). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Natarajan** to have the same motivation as set forth in claim 2, supra.

18. As to claim 5, **Lewis** teaches the invention substantially as claimed, wherein correlating the failure comprises: interacting with a physical network transport inventory; and determining physical network elements from the failure (abstract, figure 1, col. 5, lines 40-col. 6, lines 46). However, **Lewis** does not explicitly teach determining upstream and downstream from the failure. **Natarajan** teaches the step of determining upstream and downstream failure (col. 15, lines 19-64). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Natarajan** to include the step of determining upstream and downstream of network element from the failure because it would have an efficient management system that can manage and monitor network

condition and control network performance effectively.

19. As to claim 6, **Lewis** teaches the invention substantially as claimed, wherein correlating the failure comprises: correlating related failures from the physical network elements with the failure (abstract, figures 1, 3, col. 5, lines 40-col. 6, lines 46). **Natarajan** teaches the upstream and downstream failure (col. 15, lines 19-64). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Natarajan** to have the same motivation as set forth in claim 5, supra.

20. Claims 13-17 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Lewis** U.S. Patent No. **6,205,563**, in view of **Groath et al.** U.S. Patent No. **6,571,285**.

21. As to claim 13, **Lewis** does not explicitly teach the invention as claimed; however, **Groath** teaches notifying the one or more user's affected by the failure when the failure is resolved (col. 10, lines 25-col. 11, lines 42, col. 65, lines 25-col. 66, lines 31). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Groath** to have the feature of notifying the users when the failure is resolved because it would provide an efficient communication system that managing, monitoring, and tracking network configurations.

22. As to claim 14, **Lewis** teaches the invention substantially as claimed, further comprising validating the resolution of the failure (col. 6, lines 52-col. 7, lines 17).

23. As to claim 15, **Lewis** does not explicitly teaches the invention as claimed; however, **Groath** teaches wherein validating the resolution of the failure comprises testing a physical connectivity of the video and data network (col. 34, lines 65-col. 36, lines 19, col. 118, 12-24, col. 174, 25-67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Groath** to the same motivation as set forth in claim 13, supra.

24. As to claim 16, **Groath** teaches the invention substantially as claimed, wherein validating the resolution of the failure comprises testing a virtual connectivity of the video and data network (col. 34, lines 65-col. 36, lines 19, col. 118, 12-24, col. 174, 25-67). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Lewis and Groath** to the same motivation as set forth in claim 13, supra.

25. As to claim 17, **Groath** teaches the invention substantially as claimed, further comprising storing the failure in a history of failures (col. 70, lines 14-col. 71, lines 30). It would have been obvious to one of ordinary skill in the Data Processing art

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at the time of the invention was made to combine the teaching of **Lewis and Groath** to have the step of storing the failure in a history of failures because it would provide an efficient communication system that allows users, administrators and repair personnel to manage, monitor, and keep track network configurations/faults.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

27. Henderson et al. (USPN 6,058,103), Rangarajan (USPN 5,987,514), Croslin (USPN 5,995,485), Croslin (USPN 5,991,264), Panikatt et al. (USPN 6,349,333), Azuma et al. (USPN 6,430,150), and Galand et al. (USPN 6,038,212) are recited for disclosing various information related to the claimed invention. Applicants are requested to consider these prior art references when responding to this office action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached at (571) 272-3978.

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Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications.

Thu Ha Nguyen

October 18, 2004


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER